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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

LARRY DARNELL TAYLOR,

Defendant and Appellant.

B166918

(Los Angeles County
Super. Ct. No. KA060275)

APPEAL from a judgment of the Superior Court of Los Angeles County, Jack P. Hunt, Judge. Affirmed.

Matthew Alger, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Larry Taylor was charged with theft with a prior theft-related conviction and alleged to have sustained five prior convictions within the meaning of the “Three Strikes” law. Defendant was represented by the public defender at the preliminary hearing but at arraignment exercised his right to self-representation. Defendant later filed a motion

pursuant to Penal Code section 995, which was denied. Upon denial of his motion, defendant agreed to enter a plea of no contest to the charged theft with a low-term sentence of 16 months in exchange for dismissal of the five strike allegations. Defendant entered such plea and was sentenced in accordance with the plea bargain. He timely filed a “notice of appeal and application for certificate of probable cause, (if needed).” We appointed counsel to represent him.

On September 25, 2003, appointed counsel filed a brief in which no issues were raised. (*People v. Wende* (1979) 25 Cal.3d 436, 441–442.) Also on September 25, we notified defendant by letter that within 30 days he could personally submit any contentions or issues that he wished us to consider. Defendant made such a submission. In it, he contends that he was denied due process based on the failure to preserve a surveillance videotape and an item of property he was alleged to have stolen, and that he should have been admonished of his rights under *Miranda v. Arizona* (1966) 384 U.S. 436. We reject these contentions.

The transcript of the preliminary hearing establishes that on the afternoon of January 17, 2003, defendant was observed on closed circuit television by “loss prevention officer” Osmand Smith taking a pair of sunglasses from a rack at a Rite-Aid store in Pomona. (Smith was the only witness at the hearing.) Defendant then moved to an area of the store that was out of the view of the surveillance camera. Smith went to the area where defendant had been seen and found a “UPC tag” for a pair of sunglasses on the floor. When Smith returned to the television monitors, defendant could once again be seen, but the sunglasses were no longer visible. Defendant proceeded out of the store through the checkout stand, purchasing only an ice cream bar. Defendant was detained outside the store by Smith’s partner and brought back inside. There, defendant acknowledged that he knew why he had been stopped, and he produced the sunglasses from his pocket in response to a request that he relinquish the stolen property.

Smith further testified at the preliminary hearing that he could not locate the videotape that depicted defendant in the store, nor could he remember if police officers

who came to arrest defendant had taken the tape. Smith reiterated that defendant was out of the range of the surveillance cameras when he concealed the sunglasses.

Defendant's arguments regarding the failure to preserve evidence and the failure to provide *Miranda* warnings may not be reached on appeal following a plea of no contest. (See *People v. Avalos* (1996) 47 Cal.App.4th 1569, 1576; *People v. DeVaughn* (1977) 18 Cal.3d 889, 896; see also Pen. Code, § 1016, par. 3 [plea of no contest has same effect as plea of guilty].) Accordingly, these arguments must be rejected.

We have examined the entire record and are satisfied that defendant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

The judgment is affirmed.

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MALLANO, J.

We concur:

SPENCER, P. J.

VOGEL (MIRIAM A.), J.